

**STATE OF MINNESOTA
BOARD OF ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE
AND INTERIOR DESIGN**

In the matter of
Robert Gould
License Number 42112

**SETTLEMENT AGREEMENT
AND
CEASE AND DESIST ORDER**

Board File No.: 2004-0018

**TO: Robert Gould
Gould Evans Associates
706 Massachusetts Street
Lawrence, KS 66044**

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (Board) is authorized pursuant to Minnesota Statutes §§ 214.10 and 326.111 (2002) to review complaints concerning the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience and interior design, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning Mr. Robert Gould (Respondent). The Board's Complaint Committee (Committee) reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

1. Jurisdiction. Pursuant to Minnesota Statutes § 326.111, subd. 3 (2002), the

Board is authorized to issue an order requiring unlicensed individuals to cease and desist from practicing professional engineering in the State of Minnesota. Respondent is subject to jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement.

2. Facts. This Settlement Agreement is based upon the following facts:

a. Respondent was first licensed to practice architecture in the State of Minnesota on August 16, 2002.

b. Respondent is not currently and never has been licensed by the Board as a professional engineer in the State of Minnesota.

c. Respondent prepared, signed and certified the architecture drawings for the Tractor Supply Company in Worthington, Minnesota.

d. Mr. Lee Johnson, PE from Bob D. Campbell & Company (Minnesota License 24344), prepared the structural engineering drawings (S001, S100, and S200) for the Tractor Supply Company.

e. Respondent signed and certified the structural engineering drawings (S001, S100, and S200) for the Tractor Supply Company in Worthington, Minnesota. True and correct copies of drawings S001, S100, and S200 are on file at the Board's office.

f. Respondent admits to signing and certifying the structural engineering drawings. In a letter dated September 17, 2003, Respondent states:

"I received a set of preliminary drawings from the structural engineer with the understanding that a signed copy would follow in a few days. I had reviewed the architectural drawings on a number of occasions, but in my rush to get these to the City for approval, the unsigned structural drawings were laid out with the architectural drawing; stamped with my

architectural stamp and unfortunately signed by me. An engineer licensed in the State of Minnesota prepared the structural drawings. A signed set of structural drawings was received in my office on the 28th of August. A copy of the signed drawings has been sent to Duane Grace, Building and Fire Code Consultants, Moose Lake, Minnesota, per his request. I have also enclosed structural sheets (S001, S100, and S200) with this letter for your review.

This was purely an administrative mistake, it was not my intent to practice engineering. I apologize for any inconvenience I have caused you and the Board in this matter."

A true and correct copy of the September 17, 2003 letter is attached hereto as Exhibit A.

g. Respondent reissued the drawings for the Tractor Supply Company with the engineering drawings signed and certified by the professional engineer, Mr. Johnson.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes § 326.02, subds. 1. and 3 (2002) and are sufficient grounds for the action specified below.

4. Enforcement Action. Respondent and the Committee agree that the Board should issue an Order in accordance with the following term:

- a. Reprimand. Respondent is reprimanded for the foregoing conduct.
- b. Cease and Desist Order. Respondent shall **cease and desist** from certifying engineering drawings in Minnesota, and from further violations of Minnesota Statutes §§ 326.02 to 326.15 (2002) until such time as he becomes licensed as a

professional engineer in the State of Minnesota.

c. Civil Penalty. Respondent shall pay a **civil penalty** of two hundred fifty dollars (\$250.00) to the Board. Respondent shall pay the two hundred fifty dollars (\$250.00) to the Board within sixty days after the date of the Board's Order.

5. Additional Discipline for Violations of Order. If Respondent violates this Stipulation and Order, Minn. Stat. ch. 326, or Minn. Rule ch. 1800 or 1805, the Board may impose additional discipline pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least thirty days prior to the hearing, the Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Within fourteen days after the notice is mailed, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. At the hearing before the Board, the Complaint Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice or suspension or revocation of Respondent's license.

6. Judicial Relief. If Respondent violates paragraph 4 above, a district court of this state may, upon application of the Committee, enter an order enjoining Respondent

from such unauthorized practices, and granting the Board its costs, reasonable attorney fees, and other appropriate relief.

7. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent and to dispute the appropriateness of discipline in a contested proceeding pursuant to Minnesota Statutes Chapter 14. Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order containing the enforcement action specified in paragraph 4 herein. Respondent waives the right to any judicial review of the Order by appeal, writ of certiorari, or otherwise.

8. Collection. In accordance with Minnesota Statute § 16D.17, Subd. 2 (2002), in the event this order becomes final and Respondent does not comply with the condition in paragraph 4(c) above, the Board may file and enforce the civil penalty as a judgment without further notice or additional proceedings.

9. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement or a lesser remedy than specified herein, this Settlement Agreement and Cease and Desist Order shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14, Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Settlement Agreement and the record.

10. Record. The Settlement Agreement, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Settlement Agreement.

11. Data Classification. Under the Minnesota Data Practices Act, this Settlement Agreement and Cease and Desist Order is classified as public data upon its issuance by the Board. Minnesota Statutes § 13.41, subd. 5 (2002). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank for Respondent's profession.

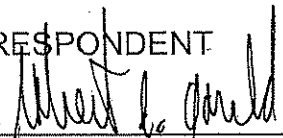
12. Entire Agreement. Respondent has read, understood, and agreed to this Settlement Agreement and is freely and voluntarily signing it. The Settlement Agreement contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

13. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Stipulation and Order and which is not directly related to the specific facts and circumstances set forth herein.

14. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

15. Service. If approved by the Board, a copy of this Settlement Agreement and Cease and Desist Order shall be served personally or by first class mail on Respondent. The order shall be effective and deemed issued when it is signed by the Chair of the Board.

RESPONDENT


Robert Gould, Architect

Dated: 1 April 2004

COMPLAINT COMMITTEE

By 

Sonia Maassel Jacobsen, PE
Committee Chair

Dated: 4/8/2004

ORDER

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and adopted and hereby issued as an Order of this Board this 14 day of May, 2004.

MINNESOTA BOARD OF
ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE AND
INTERIOR DESIGN.

By: 

James O'Brien, Architect
Chair

RECEIVED

SEP 22 2003

Gould Evans Associates, LC
706 Massachusetts Street
Lawrence, Kansas 66044

785-842-3800 voice
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17 September 2003

Mr. Benjamin Barker
The Minnesota Board of Architecture, Engineering,
Land Surveying, Landscape Architecture, Geoscience &
Interior Design
85 East 7th Place, Suite 160
St. Paul, MN 55101

GouldEvans

RE: Robert Gould, File No. 2004-0018

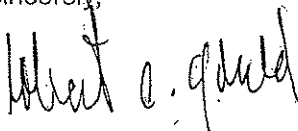
Dear Mr. Barker:

I'm writing this letter to explain the circumstances in which I inadvertently signed structural drawings (S001, S100 and S200) for the Tractor Supply Company in Worthington, Minnesota.

I received a set of preliminary drawings from the structural engineer with the understanding that a signed copy would follow in a few days. I had reviewed the architectural drawings on a number of occasions, but in my rush to get these to the City for approval, the unsigned structural drawings were laid out with the architectural drawing, stamped with my architectural stamp and unfortunately signed by me. An engineer licensed in the State of Minnesota prepared the structural drawings. A signed set of structural drawings was received in my office on the 28th of August. A copy of the signed drawings has been sent to Duane Grace, Building and Fire Code Consultants, Moose Lake, Minnesota, per his request. I have also enclosed structural sheets (S001, S100 and S200) with this letter for your review.

This was purely an administrative mistake, it was not my intent to practice engineering. I apologize for any inconvenience I have caused you and the Board in this matter. If you have any questions or need additional information, please contact me.

Sincerely,



Robert E. Gould, AIA
Principal

Enclosure: Sheets S001, S100, S200

EXHIBIT A